

UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Marshall Green,

Plaintiff,

v.

Case No. _____

The County of Allegany, Jennifer Bigelow,
Carolyn Kellogg, and Pamela Watson

Defendants.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331, 1343, 1441, 1443, and 1446, and without waiving any rights, privileges or defenses, Defendants The County of Allegany, Allegany County Deputy Commissioner of Child Protective Services Jennifer Bigelow, Allegany County Department of Social Services Attorney Carolyn Kellogg, and former Child Protective Services Investigator Pamela Watson (hereinafter the “Municipal Defendants”), hereby remove the action entitled *Marshall Green -against- The County of Allegany, New York, Jennifer Bigelow, Carolyn Kellogg, Pamela Watson*, Index Number 51428, filed in the Supreme Court of New York, Allegany County, to the United States District Court, Western District of New York, based on the following grounds.

STATE COURT ACTION

1. On August 23, 2023, Plaintiff served a Notice of Claim which he titled “Letter of Intent to Sue.” This document asserted claims against the Allegany County Child Protective Services, Allegany County Investigator Pamela Watson, Allegany County

Deputy Commissioner Jennifer Bigelow, and Allegany County attorney for CPS, Carolyn Kellogg. A true and accurate copy of this document is attached as **Exhibit A**.

2. Plaintiff provided an examination under New York General Municipal Law 50-h on October 20, 2023.

3. On August 28, 2024, Plaintiff commenced the Action in the Supreme Court of New York, Allegany County, with the filing of a Summons and Complaint, which he titled a “Verified Petition.” A true and accurate copy of this document is attached as **Exhibit B**.

4. Plaintiff served the County of Allegany, Carolyn Kellogg, and Jennifer Bigelow on September 5, 2024. Pamela Watson was served on September 12, 2024. The affidavits of service on the County of Allegany, Carolyn Kellogg, and Jennifer Bigelow have been filed. The affidavit of service on Pamela Watson has not been filed. True and accurate copies of the filed affidavits of service are attached as **Exhibit C**.

5. Plaintiff alleges civil causes of action under 42 U.S.C. § 1983 under theories of Malicious Prosecution and Due process.

6. Both of Plaintiff’s causes of action are federal questions, arising from the laws and Constitution of the United States, making removal appropriate pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1441.

7. Plaintiff’s claims seek to recover damages and equitable relief for alleged actions taken under color of state law, which is within the original jurisdiction of this Court, making removal furthermore appropriate under 28 U.S.C. § 1343.

8. Pursuant to 28 U.S.C. § 1446(b)(1), this removal is made within thirty days of service on the last served defendant.

9. All of the Municipal Defendants are represented by Collucci & Gallaher P.C., and consent to this removal pursuant to § 1446 (b)(2)(B).

PROCEDURAL REQUIREMENTS

10. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders served in this action are attached to this Notice of Removal. *See* Exs. A, B, C.

11. Pursuant to 28 U.S.C. § 1446(d), Defendants will serve a copy of this Notice of Removal on Plaintiff and a Clerk of the Allegany County Supreme Court.

12. Pursuant to Local Rule 81(a)(1) and (2), Defendants have submitted a civil cover sheet with this Notice of Removal and have paid the requisite filing fee.

13. Pursuant to Local Rule 81(a)(3), Defendants are attaching an Index of Exhibits identifying each document filed and/or served in the state court matter. There are no discovery materials to attach in this *pro se* case as the parties have not yet commenced discovery.

14. Pursuant to Local Rule 81(a)(4), the undersigned hereby certifies that he has provided all other parties in this action with the Notice of Removal and exhibits being filed in this Court.

15. By filing this Notice of Removal, Defendants do not waive any defense that may be available to them.

16. Defendants reserve the right to amend or supplement this Notice of Removal.

WHEREFORE, pursuant to 28 U.S.C. §§ 1331, 1343 1441, 1443, and 1446, Defendants hereby remove this action from the Supreme Court of New York, Allegany County, to the United States District Court, Western District of New York.

DATED: October 15, 2024

By: _____

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Attorneys for County of Allegany,

Jennifer Bigelow, Carolyn

Kellog, and Pamela Watson

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on October 15, 2024, a copy of this Notice of Removal with the Index of Exhibits, was served on the following pro se Plaintiff via electronic mail and United States Mail, first class postage prepaid:

Marshall Green
128 South Broad Street
Wellsville, New York 14895
Mhbgreen74@gmail.com

